

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

THE HUMANE SOCIETY OF THE UNITED
STATES, et al.,

Appellees,

v.

SALLY JEWELL, et al.,

Appellants,

and

HUNTER CONSERVATION COALITION,

Appellants / Defendant-Intervenors.

No. 15-5041

1:13-cv-00186-BAH

Consolidated with 15-5043, 15-5060, 15-5061

APPELLANTS / DEFENDANT-INTERVENORS
HUNTER CONSERVATION COALITION'S
STATEMENT OF ISSUES TO BE RAISED

Appellants/Defendant-Intervenors U.S. Sportsmen's Alliance Foundation,
Safari Club International, the National Rifle Association of America, the
Wisconsin Bear Hunters Association, the Michigan United Conservation Clubs, the
Wisconsin Bowhunters Association, the Upper Peninsula Bear Houndsmen
Association, the Michigan Hunting Dog Federation, and the Rocky Mountain Elk

Foundation (collectively, “Hunter Conservation Coalition”)¹ submit the following Statement of Issues to be Raised in accordance with the Court’s Order dated February 24, 2015.

(1) Did the District Court err in finding that the U.S. Fish and Wildlife Service’s (“FWS”) decision to recognize and delist a Distinct Population Segment (“DPS”) in its rule Revising the Listing of the Gray Wolf (*Canis lupus*) in the Western Great Lakes (“Final Rule”), 76 Fed. Reg. 81,666 (Dec. 28, 2011), was arbitrary and capricious and violated the Endangered Species Act of 1973 (“ESA”), as amended, 16 U.S.C. §§ 1531 *et seq.*?

(2) Did the District Court fail to give the proper deference required by *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*² to the FWS’s interpretation that the ESA granted the agency authority to recognize a DPS for the purpose of delisting that DPS, especially in light of the fact that another district court judge had previously ruled the pertinent statutory provision to be “ambiguous”:

[T]he ESA is ambiguous with respect to the precise question at issue: whether the ESA permits FWS to use the DPS tool to remove the protections of the statute from a healthy subpopulation of a listed

¹ “Hunter Conservation Coalition” is a collective term for the private party defendant-intervenors who each joined in the Unopposed Motion to Intervene (ECF Doc. 11) granted by the Court in a Minute Order dated May 7, 2013 (ECF Doc. 14). *See* Unopposed Motion to Intervene at 1 (listing the applicant-defendant-intervenors by name). All of those intervenors join in this Statement of the Issues to be Raised and are listed by name above.

² *Chevron*, 467 U.S. 837, 845 (1984).

species, even if that sub-population was neither designated as a DPS nor listed as endangered or threatened beforehand.

Humane Society of U.S. v. Kempthorne, 579 F. Supp. 2d 7, 15 (D.D.C. 2008).

(3) Did the District Court err in finding that the FWS's decision to delist the Western Great Lakes DPS was not sufficiently supported by scientific evidence?

(4) Did the District Court err in holding that Plaintiffs had sufficiently established the requisite injury in fact and redressability elements required for required for Article III standing?

Dated: March 26, 2015

Respectfully submitted,

Hunter Conservation Coalition Appellants-Defendant-Intervenors

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of March 2015, the foregoing was sent to all counsel of record through the Court's ECF System.

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